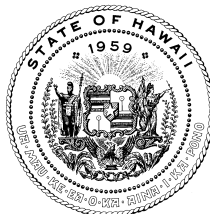


LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESEERVATION DIVISION  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**MINUTES  
O'AHU ISLAND BURIAL COUNCIL MEETING**

**DATE: WEDNESDAY, OCTOBER 8, 2008**  
**TIME: 10:00 A.M.**  
**PLACE: DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**1151 PUNCHBOWL STREET, ROOM 132**  
**HONOLULU, HAWAII 96813**

**ATTENDANCE:**

**Members:** Kehau Abad  
Aaron Mahi  
Kehalani Kruse  
Jace McQuivey  
Cy Bridges  
Shad Kane  
Kawika McKeague  
Hinaleimoana Falemei

**Absent:** Alice Greenwood (excused)  
Leimaile Quiteves (excused)  
Charles Erhhorn (excused)  
Andrew Keliikoa (excused)

**Staff:** Linda Kaleo Paik, Cultural Specialist  
Vince Kanemoto, Deputy Attorney General  
Phyllis "Coochie" Cayan, History & Culture Branch Chief  
Nancy McMahon, Deputy SHPO/Archaeology Branch Chief

**Guests:** Nalani Dahl, HHCTCP  
Elysa Yadao, RTD  
Gary Omori, RTD  
Faith Miyamoto, DTS  
Larewnce Spurgeon, Parsons/Brinkerhoff  
David Shideler, Cultural Surveys Hawaii, Inc.  
Lani Maa-Lapilio, Kuiwalu  
Victor Kimura, Kyo-ya, Inc.  
Sean Hao, The Honolulu Advertiser

Anthony Benzon  
Jeffrey Pantaleo, Jeffrey Pantaleo Consultants, LLC

## **CALL TO ORDER**

Quorum was established and Chair McQuivey called the meeting to order at 10:30 a.m. Bridges offered the pule.

### **I. INTRODUCTION OF COUNCIL MEMBERS AND SHPD STAFF & ROLL CALL**

Council members, the SHPD staff and the Deputy AG introduced themselves. Attendance was duly noted for the record.

### **III. OPENING REMARKS**

Chair McQuivey explained to the public the purpose of the meeting and the council's ground rules.

### **IV. APPROVAL OF MEETING MINUTES**

Corrections to the minutes: Delete the "s" in Spurgeon.

Page 2, Item V. A: change the wording from "The MOA is being drafted..." to "Miyamoto continued by stating the MOA is being drafted...."

Page 9, Item C, last line of the paragraph beginning with "Abad questioned..." should be changed to the term "burial site" "a broader term to include an area larger than a single burial when multiple burials are involved."

Page 10 regarding the dialogue involving Kanemoto and Abad; change the two sentences to clarify the dialogue as "Abad asked whether a case on O'ahu addressed the same matter of the burial site definition. Kanemoto was uncertain whether that matter was raised in the O'ahu case in court."

Page 10, item D to specify the August 11, 2008 correspondence for the Renovation of the Beach Cottages at the MCBH.

Motion to accept minutes as amended: Abad/McKeague

Vote: unanimous

### **V. COUNCIL ACTIONS**

#### **A. Burial Treatment Plan for the Fanger Property located at 54-327 Kamehameha Highway, Kaipapa'u, Ahupua'a, Ko'olauloa District, Island of O'ahu [TMK: (1) 5-4-03: 3, 52-54]**

**Informational/Discussion/Recommendation:** Discussion and recommendation for the burial treatment plan for the above mentioned project.

McQuivey recused himself from this agenda item and McKeague chaired the meeting for this item.

Panteleo gave a brief description of the project and the proposed burial treatment for the remains found on the property. A draft Burial Treatment Plan was submitted for comment to the Council.

Pantaleo did research the Barerra report as recommended by the Council for the same property to see the final disposition of one of the burials found In Situ within the 40 foot set back. The final location could not be ascertained through the report, however, an approximate location is identified on page 12 of the Burial Treatment Plan. There are 4 burials altogether on the property. The proposal for treatment is to leave the 3 burials in the 40 foot setback In Situ.

During construction, an orange fencing will be erected to mark the 40 foot set back and no activity will be allowed in the area. During monitoring, the mandible will have a 10 foot orange fence around the fragment during construction. If remains are found that are associated with the mandible, then the mandible and the other associated remains will be left In Situ. The house will be moved to accommodate the In Situ burial

If no more remains are discovered associated with the mandible, the mandible will be relocated with the other In Situ from the Kennedy discovery in the 40 foot set back. If any more remains are discovered during construction, the proposal will be to place them into cardboard boxes with muslin and ti leaves and to curate on the property until construction is complete. The curation site will be a secured temporary structure. The remains will then be re-interred within the 40 foot set back. Vegetation will be planted over the burial site and maintained by the landowner.

Kruse commented that she had an uncle who lived on the property. McKeague mentioned that he noticed no one responded to the burial and confirmed by Pantaleo. Bridges gave a brief history of the property. Cayan asked Bridges if he knew of any descendants who may be contacted. Bridges replied that most do not live in the area anymore. Abad asked that Bridges be consulted to give guidance to booster the Burial Treatment Plan and to include appropriate Burial Council members, such as Kruse, for their input. Abad wanted to commend the landowner for item number 6 on page 11, which states that if remains are discovered, the remains will be left In Situ and the house moved to avoid the burials. She wanted to underline the appreciation for the willingness of the landowner to keep the burials in place.

Falemai gave her viewpoint in Hawaiian on the long term preservation measure to include the planting of the right type of vegetation, a low wall or pohaku to mark the site. This will give the untrained person something physical to suggest and represent that it is a site. Mahi interpreted Falemei's words in summary.

Abad suggested that something more substantial than the planting of naupaka would be appropriate within the 40 foot set back. Other members of the Council echoed the same sentiment.

Falemei clarified her input by suggesting the marker be substantial enough to define the site clearly and without question that this is a site not to be disturbed. She would like to see other development projects follow the example done in this project for the proper treatment of remains and the willingness to preserve in place remains that are discovered.

This Burial Treatment Plan will be up for determination at the November meeting.

**B. Informational Update on the Honolulu Rapid Transit Honouliuli, Ho‘ae‘ae, Waikele, Waipio, Waiawa, Manana, Waimano, Waiau, Waimalu, Kalauao, Aiea, Halawa, Moanalua, Kahauiki, Kapalama, Nuuanu, Pauoa, Makiki, Manoa, and Waikiki Ahupua‘a, ‘Ewa and Kona Districts, Island of O‘ahu [TMK: Various]**

**Information/Discussion/Recommendation:** Council discussion and recommendations on the project.

Miyamoto did send a letter September 30, 2008 to the Department for the Council. A copy of the letter was handed out to the Council. The letter is a follow-up to the last meeting to reiterate the items discussed:

- 1) role of the Council in the Section 106 MOA process, communicated the position of the Council to be as an invited signatory instead of a concurring party. At present the issue is being discussed internally with FTA and no decision has been made.
- 2) offer the Council a tour of the route, and to schedule a date and time.
- 3) like to propose the formation of a subcommittee from the Council to meet with the transit people.

Miyamoto would like the Council to discuss at this meeting the last two items of the letter. The subcommittee would meet more frequently as needed with all appropriate parties for the discussions at hand. In the case of the MOA, all parties involved with the discussion would be in attendance.

McQuivey thanked Miyamoto for their effort in coming each month to discuss this item with the Council. The discussion was opened up for the tour of the route.

Cayan recommended that the Council take the tour of the route to see the lay of the land and what resources will be impacted.

Kanemoto advised that the tour would have to be accessible to the general public in order to comply with the Sunshine Law.

Spurgeon suggested that a tour bus be used with a speaker so that all could hear the conversations while on route. The bus will be provided by the City.

Abad asked what would be the suggested time that must be allowed for the tour. Spurgeon suggested that Phase one would take approximately 2 hours. To do the entire route would take a full day. The Council agreed to take the full route and to attend to make quorum.

Bridges asked if the tour would be for the Council only and not include the public. Kanemoto responded by clarifying that it would have to be an open meeting which would have to include the public as the tour would point out sites and discussion not restricted.

McQuivey had four options:

- 1) Not do the tour
- 2) Have the subcommittee do the tour and report back to the Council and later do the tour in phases
- 3) Have the members have their own transportation and meet at designated sites so that the public could meet there as well
- 4) Have everyone take the bus

McQuivey asked if there would be safe places for stops along the route. Spurgeon responded that there could be safe stopping points, but it would not be practical. Spurgeon advised against this option as it would pose logistical problems in keeping the group together and parking at the stop sites.

McQuivey asked if the entire Council could be on the task force and Kanemoto responded that it would not be possible according to the rules.

Paik suggested that the bus be large enough to transport 50 passengers to accommodate the public. If the Council did go on the tour and carpooled, the restriction would still apply to have discussions of no more than two between stops. McQuivey saw two things that would foil the tour, one that there is no quorum and two, that there would be more participants than could fit in the bus. Kanemoto cited an instance on Hawaii Island where the Council did go two at a time and met at a designated site to discuss as a whole.

Abad asked the Council to take the issue of quorum seriously so that there will be a meeting and take a chance on not having an unusual amount of participation from the public. There are no iwi in danger at the moment for the project and therefore there may not be as much public interest at this time.

The Council agreed to take the tour for the next scheduled meeting. Meet at the Land Board room, convene, take the tour and reconvene at the Land Board room to finish the meeting. Spurgeon advised that the tour start in Kapolei and work back as the more sensitive issues are in town and may need more time.

Falemei offered her assistance in getting an additional bus if needed.

Kanemoto suggested that the agenda include the time of the meeting, the departure for the tour and the time that the Council would reconvene. The idea of RSVP for the tour would be moot as there is no requirement to respond to a meeting. It is anyone who shows up must be accommodated.

McKeague stated 92-3.1 statute to address limited meeting for the purpose of taking the tour as a possible option. The danger and liability that may be involved by taking this tour may be justification for the limited meeting. Kanemoto responded that the statute would not be met for the purpose of this kind of meeting. The liability issue is burdened by the City and the issue of danger according to Kanemoto would not be deemed dangerous and therefore allowable by 92-3.1 statute.

Bridges suggested that there is only a limited space and therefore the issue of turning the public away should not be an issue. If 500 people show up, there would be no room, the public is welcome to come but there is no room on the bus. Paik suggested that at 8:00 am on that morning, the number of people will be determined and the tour can be decided at the time.

A task force was created to address the project. Members of the task force will be Abad, Kruse, Kane, McKeague and Falemei. The responsibilities and authorities will be:

- 1) Write a formal correspondence to FTA to articulate the Council's position to become a signatory
- 2) Provide informal consultation to the project
- 3) Other duties as assigned

Motion to form a subcommittee called Rail Transit Task Force whose initial members will be Abad, Kruse, Kane, McKeague and Falemei to fulfill the duties and responsibilities as stated above. McQuivey/Abad

Vote: unanimous

**C. City and County of Honolulu Council, Resolution 08-168; 08-168CD1 and 08-192**

**Information/Discussion/Recommendation:** Council discussion on proposed Resolutions 08-168; 08-168CD1 and 08-192 that requests the City Administration to report on the implementation of the Comprehensive Historic Preservation Review Policy established by Council Resolution 89-489, FD1

Resolution 08-168 and 168CD1 passed on September 24 by the City Council. Cayan drafted a letter to Henry Eng of the Department of Planning and Permitting (DPP) expressing the Council's support of the Resolution and to keep working with DPP in the future. The letter was signed by McQuivey and McKeague on behalf of the Council. Ehrhorn did meet with Eng personally to express the Council's sentiments and support.

**D. Legislative Task Force**

**Information/Discussion:** Council discussion on possible items for the 2009 legislative packet.

McQuivey had not heard back from the other IBC for any legislation the other Councils may want to submit.

Abad stated that the Kauai case did not address the concern about identification and clarification of what constitutes a burial site. Therefore this issue still needs to be addressed.

McQuivey would like to keep this item on the agenda for future meetings with the understanding that the time line for submittal of new legislation is drawing near to a deadline as the proposed legislation must have a sponsor from a legislator

**E. Status Update on Section 106/NAGPRA Correspondence**

**Informational/Discussion/Recommendation:** Report from the council's designees established to screen the review of Section 106/NAGPRA Correspondence. Council updates, discussion and recommendations.

No report from the committee.

**VI. SHPD INADVERTENT DISCOVERY REPORT**

**A. Iroquois Point**

**Honoululi Ahupua'a, Ewa District, Island of Oahu**

**TMK: (1) 9-1-001: 001**

Informational

Paik gave a brief update on the two finds that were discovered at Iroquois Point. The remains are being curated at the State repository.

**B. Royal Hawaiian Hotel**

**Waikiki Ahupua'a, Kona District, Island of Oahu**

Cayan apologized that this item was not agendaized, but it was described in the council summary of inadvertent finds for the month. (Paik did submit a revised agenda to the Lt. Governor's office which included the Royal Hawaiian discoveries) Cayan gave a brief description of the discoveries at the Royal Hawaiian. The remains are being curated on site.

**VII. OTHER BUSINESS**

Falemei expressed her thoughts on speaking Hawaiian during the meeting. She felt that Hawaiian is the language of Hawaii and should be used and accepted when appropriate.

**VIII. ADJOURNMENT**

Meeting was adjourned at 12:10 p.m.

Respectfully submitted by,

Linda Kaleo Paik.